

NON-FINAL ACTION

Applicant's amendment of 11-8-07 has been fully considered. The terminal disclaimer has overcome the previous rejection of Obviousness Type Double Patenting. However, in reviewing pending claims, the following issue of 112/2nd is noted.

Claims 1-40, 42-45, 47, 68, 73-87, 89-91 and 95-105 are cancelled.

Claims 88 and 92-94 are withdrawn.

Claims 41, 46, 48-67, 69-72 are pending.

Claim Rejections - 35 USC § 112, Second Paragraph

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 49-53, 56, and 58-60 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- a. Claim 49 lacks antecedent basis because it recites variable R_d which represents substituents that should be within the scope of R_a . However, when R_d is "amino", the groups of $-N(R_x)-S(O)_mR_d$ and $-N[S(O)_mR_x]S(O)_mR_d$ are not within the scope of $-LR_a$ in claim 41. Also, since R_d has included group of substituted R_a , the additional substituents on R_d do not fall within the scope of substituted R_a .
- b. Claims 50-53 also lack antecedent basis because they depend on claim 49 and recite R_d as well.

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c. Claim 56 lacks antecedent basis because it depends on claim 55, but recites the limitations of “(5- to 6-membered heteroaryl)C₀₋₄alkyl”, and “(5- to 7-membered heterocycloalkyl)C₀₋₄alkyl” which are not recited for R₃ and R₄ in claims 41 and 55.

d. Claims 58 and 59 also lack antecedent basis because they depend on claim 41, but recite the limitation of “aminocarbonyl” which is not recited for R₃ and R₄ in claim 41.

Claim 60 is rejected as being dependent on claim 59.

Allowable Subject Matter

2. Claims 41, 46, 48, 54, 55, 57, 61-67 and 69-72 are allowable because they recite compounds of substituted *pyrido[2,3-d]pyrimidine* with a combination of substituents that introduce limitations to the core of the instant compound that are not taught or fairly suggested by the prior art of record.

Information Disclosure Statement

3. The IDS of 11-8-07 has been considered.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TAMTHOM N. TRUONG whose telephone number is (571)272-0676. The examiner can normally be reached on M, T and Th (9:00-5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James O. Wilson can be reached on 571-272-0661. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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